

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

BEVERLY KOEHNEN,

Case No. 23-CV-318 (NEB/LIB)

Plaintiff,

v.

ORDER ACCEPTING REPORT AND
RECOMMENDATION

CITY OF SHAKOPEE, SCOTT COUNTY,
and PIONEER ENGINEERING,

Defendants.

The Court has received the May 17, 2023 Report and Recommendation of United States Magistrate Judge Leo I. Brisbois. (ECF No. 5 (“R&R”).) The R&R recommends that Plaintiff Beverly Koehnen’s action be dismissed without prejudice for lack of jurisdiction and that her *in forma pauperis* application be denied as moot. (*Id.* at 3.) Koehnen filed a “reply[]” to the R&R that does not object to the R&R’s conclusions. (ECF No. 6.) Nonetheless, to view with leniency, the Court takes the reply as an objection and reviews *de novo*. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b)(3).

The R&R found that Koehnen’s complaint provides no substantive allegations, and declined to review her various exhibits for allegations or claims supporting her action. (R&R at 1–2 & n.2.) It concluded that the Court lacks subject-matter jurisdiction to adjudicate this action because although the complaint asserts that federal question jurisdiction exists here, it fails to identify any federal law at issue. (*Id.* at 2; *see* ECF No. 1

at 3; ECF No. 1-3.) In her reply to the R&R, Koehnen briefly describes disputes with her current and former neighbors about the location of a property line but does not identify a basis for this Court's jurisdiction over those disputes. (*See* ECF No. 6 at 2.) The Court agrees with the R&R that it lacks subject-matter jurisdiction over this action. *See* Fed. R. Civ. P. 12(h)(3) ("If the court determines at any time that it lacks subject-matter jurisdiction, the court must dismiss the action.").

Based upon all the files, records, and proceedings in the above-captioned matter,
IT IS HEREBY ORDERED THAT:

1. The Report and Recommendation (ECF No. 5) is ACCEPTED;
2. This action is DISMISSED WITHOUT PREJUDICE under Rule 12(h)(3) of the Federal Rules of Civil Procedure for lack of jurisdiction; and
3. Beverly Koehnen's Application to Proceed in District Court Without Prepaying Fees or Costs (ECF No. 2) is DENIED AS MOOT.

LET JUDGMENT BE ENTERED ACCORDINGLY.

Dated: June 12, 2023

BY THE COURT:

s/Nancy E. Brasel
Nancy E. Brasel
United States District Judge